

to be due within 90 days of the decision on the appeal being transmitted to the appellant government.

If the State or unit of general local government is to be considered for waiver of interest due to governmental hardship, the ACO may demand that such government provide such economic, financial, or demographic data that the ACO believes to be necessary to assist her to him in determining the existence of such hardship.

(2) In the case of an individual or a non-governmental entity which is noting an appeal which is *mandated* by law, then the imposition of interest and penalties is waived while the appeal is pending from the time that the appeal is noted until the Agency has taken final action on the appeal.

(3) When an individual or a non-governmental entity notes an appeal which is *permissive* under statute or regulation, then interest and penalties may be waived under the following circumstances:

(i) If the amount of the debt, exclusive of interest and penalties, is less than \$5,000, then interest and penalties shall be waived from the time that the appeal is noted until the Agency takes final action on the appeal.

(ii) If the amount of the debt, exclusive of interest and penalties, is \$5,000 or more then the imposition of penalties and interest may be waived if there is no fault or lack of good faith on the part of the debtor and if the amount of interest is so high, in relation to affordable installments repayments that the debt would never be repaid. In determining whether interest and penalties should be waived, the ACO or DCO may demand that the debtor provide such financial data as he or she may demand.

[49 FR 38267, Sept. 28, 1988, as amended at 53 FR 47212, Nov. 22, 1988; 57 FR 54715, Nov. 20, 1992]

§ 11.49 Omission not a defense.

Failure to comply with any standard prescribed in 4 CFR chapter 11, or in this subpart shall not be available as a defense to any debtor.

§ 11.50 Standards for compromise of debts.

(a) *Compromise.* (1) A debt may be compromised if:

(i) The debtor is not able to pay the full amount within a reasonable period of time;

(ii) If the debtor refuses to pay the debt in full and the Agency is unable to enforce collection within a reasonable time by enforced collection proceeding;

(iii) If there is real doubt concerning the Agency's ability to prove its case in court for the full amount claimed;

(iv) If the cost of collecting the debt does not justify the enforced collection of the full amount;

(v) If, in connection with statutory penalties or forfeitures established as an aid to enforcement and to compel compliance, the Agency's enforcement policy will be adequately served by acceptance of the sum to be agreed upon; or

(vi) For other reasons deemed valid by the ACO after consultation with the General Counsel. The Standards set forth in 4 CFR 103.3 through 103.9 should be used.

(2) *Inability to pay.* If a debtor is unable to pay the full amount of the debt within a reasonable time or if the debtor refuses to pay and the Government is unable to collect the amount of the debt through enforcement proceedings then the Agency may compromise the claim either in whole or in part. The ACO may require that the debtor provide sworn information as to assets, actual or potential sources of income, liabilities and other financial data. The standards set forth in the GAO, Department of Justice guidelines prescribed in 4 CFR 103.2 should be used.

(3) Compromises payable in installments will not normally be permitted by the Agency only if the debtor shows that full, immediate payment is impossible.

(4) *Litigative probabilities.* If there is a *bona fide* dispute as to facts or if there is a valid legal defense raised which may limit or eliminate the possibility of recovery, then the Agency Collections Officer may, after receiving a legal analysis from the General Counsel, compromise the action in whole or in part.